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Attorney for Defendants
 FORT MASON MARKET and DELI;
 BARBARA R. BOYLE, Trustee of the
 Barbara R. Boyle Marital Trust; and
 CATHERINE BRANDI-LINT,
 Trustee of the Robert A. Lint and
 Catherine Brandi-Lint 2008 Inter Vivos Trust

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

)	CASE NO. CV-10-5890-DMR
PATRICK CONNALLY, an individual,)	
Plaintiff,)	CONSENT DECREE
)	
v.)	
)	
FORT MASON MARKET and DELI;)	
BARBARA R. BOYLE, Trustee of the)	
Barbara R. Boyle Marital Trust; and)	
CATHERINE BRANDI-LINT, Trustee of)	
the Robert A. Lint and Catherine Brandi-)	
Lint 2008 Inter Vivos Trust,)	
Defendants.)	

1 **WHEREAS**, plaintiff PATRICK CONNALLY (hereinafter referred to at times as
 2 “CONNALLY”), on behalf of himself, has filed an action in the United States District Court,
 3 Northern District of California, alleging claims for damages and injunctive relief under the
 4 California Health & Safety Code Sections 19955, *et seq.*, California Civil Code Sections 51, 51.5
 5 and 54, *et seq.*, and the Americans with Disabilities Act of 1990 (42 U.S.C. §12101, *et seq.*)
 6 arising out of plaintiff’s visit to the FORT MASON MARKET AND DELI and ARTESANIAS
 7 on September 7, 2010, September 23, 2010 and November 11, 2010; and

8 **WHEREAS**, defendant BARBARA R. BOYLE, Trustee of the Barbara R. Boyle Marital
 9 Trust, defendant CATHERINE BRANDI-LINT, Trustee of the Robert A. Lint and Catherine
 10 Brandi-Lint 2008 Inter Vivos Trust, and Alfred J. Brandi, Trustee of the Alfred J. Brandi and
 11 Therese C. Brandi 2003 Inter Vivos Trust (hereinafter collectively referred to at all times as
 12 “1701 GREENWICH PARTIES”) are the owners of the building and landlord for the public
 13 accommodations FORT MASON MARKET and DELI and ARTESANIAS, respectively located
 14 at 1701 and 1711 Greenwich, San Francisco, California; and

15 **WHEREAS**, the public accommodation, located at 1701 Greenwich Street, San
 16 Francisco, has a seven and one quarter (7-1/4) inch step at the entrance and tall shelving
 17 containing various goods ; and

18 **WHEREAS**, the Parties have agreed to enter the Mutual Settlement Agreement and
 19 Release, marked as Exhibit “A” and attached hereto as though set forth in full (hereinafter
 20 “Settlement Agreement”), pursuant to which the 1701 GREENWICH PARTIES will perform
 21 certain remedial improvements at the 1701 and 1711 Greenwich Street public accommodations
 22 to provide access to disabled persons as set forth below; and

23 **WHEREAS**, it is not practical to construct a permanent ramp from the sidewalk into the
 24 1701 Greenwich Street store, (see Exhibit “1” - 1701 Photo, attached to the Settlement
 25 Agreement); and
 26
 27
 28

WHEREAS, the public accommodation located at 1711 Greenwich Street, San Francisco, has two (2) steps, one of which is six and three quarters to seven inches high at the sidewalk, a horizontal landing that is forty one inches deep from the sidewalk, and a second step six inches high at the threshold at the entry door (see Exhibit “2” - 1711 Photo, attached to the Settlement Agreement) ; and

WHEREAS, it is technically impracticable to construct a permanent ramp into these two public accommodations; and,

WHEREAS, CONNALLY and the 1701 GREENWICH PARTIES have agreed pursuant to the Settlement Agreement that the “readily achievable” standard under CFR36.403 can only be met at 1701 Greenwich Street by use of a buzzer, portable ramp and signage, that the standard can only be met at 1711 Greenwich Street by use of a buzzer, signage and employee assistance policy, and that the remedial measures, policy and procedures set forth in the Settlement Agreement comply with the readily achievable standard; and

WHEREAS, CONNALLY and the 1701 GREENWICH PARTIES have agreed pursuant to the Settlement Agreement that the 1701 GREENWICH PARTIES will perform certain remedial improvements at the 1701 and 1711 Greenwich Street public accommodations to provide access to disabled persons; and

WHEREAS, CONNALLY and 1701 GREENWICH PARTIES agree that the settlement of CONNALLY's claims pursuant to the Settlement Agreement have been made in good faith and in an effort to avoid expensive and protracted litigation, but without any admission or finding of liability or fault as to any allegation or matter;

NOW, THEREFORE, it is ORDERED, ADJUDGED AND DECREED as follows:

I. JURISDICTION

A. The Court has jurisdiction over the subject matter of and the parties to this Consent Decree pursuant to the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. §122101, *et seq.*

B. The 1701 GREENWICH PARTIES agree not to contest the Court's jurisdiction to enter into and enforce this Consent Decree.

II. DENIAL OF LIABILITY

The 1701 GREENWICH PARTIES deny any and all legal or equitable liability under any federal, state or local statute, regulation or ordinance, or the common law, for any damages or claims caused by or arising out of the physical condition of the 1701 and 1711 Greenwich Street public accommodations respectively or from acts or inaction. By entering into this Consent Decree, or by taking any action in accordance with it, the 1701 GREENWICH PARTIES do not admit any allegations contained herein or in the complaint, nor do they admit any liability for any purpose or admit any issue of law or fact or any responsibility for the alleged noncompliance of the 1701 and 1711 Greenwich Street public accommodations with the Americans with Disabilities Act of 1990 (ADA), Americans with Disabilities Act Accessibility Guidelines (ADAAG), California Building Code, or any other state or federal building code or statute.

III. PURPOSE

The purpose of this Consent Decree is to resolve amicably the existing dispute between the parties hereto as to whether remedial improvements at the public accommodation, located at 1701 and 1711 Greenwich Street, San Francisco, are necessary to provide access to persons with disabilities and to settle the claims asserted against defendant(s) in the complaint filed in this matter.

IV. BINDING EFFECT

A. The undersigned trustee BARBARA R. BOYLE, Trustee of the Barbara R. Boyle Marital Trust certifies that she is a trustee of the Barbara R. Boyle Marital Trust and is fully authorized to enter into the terms and conditions of this Decree and that he or she is fully authorized to execute this document and legally bind Barbara R. Boyle Marital Trust to the provisions of this Decree.

1 B. The undersigned trustee CATHERINE BRANDI-LINT, Trustee of the Robert A.
 2 Lint and Catherine Brandi-Lint 2008 Inter Vivos Trust certifies that she is a trustee of the Robert
 3 A. Lint and Catherine Brandi-Lint 2008 Inter Vivos Trust and is fully authorized to enter into the
 4 terms and conditions of this Decree and that he or she is fully authorized to execute this
 5 document and legally bind Robert A. Lint and Catherine Brandi-Lint 2008 Inter Vivos Trust to
 6 the provisions of this Decree.

7 C. The undersigned Alfred J. Brandi, Trustee of the Alfred J. Brandi and Therese C.
 8 Brandi 2003 Inter Vivos Trust certifies that he is a trustee of the Alfred J. Brandi and Therese C.
 9 Brandi 2003 Inter Vivos Trust and is fully authorized to enter into the terms and conditions of
 10 this Decree and that he or she is fully authorized to execute this document and legally bind
 11 Alfred J. Brandi and Therese C. Brandi 2003 Inter Vivos Trust to the provisions of this Decree.

12 D. The undersigned plaintiff certifies that he is fully authorized to enter into the
 13 terms and conditions of this Decree and that he has not assigned, transferred or purported to
 14 assign or transfer, to any person or entity any claim or other matter which is the subject of this
 15 Decree.

16 V. WORK TO BE PERFORMED

17
 18 A. Specifically, the 1701 GREENWICH PARTIES shall undertake remedial
 19 measures as set forth in the Settlement Agreement to make the 1701 and 1711 Greenwich Street
 20 public accommodations as accessible as possible under the "readily achievable standard" to
 21 persons with disabilities.

22 The remedial work, policy and procedures to be performed pursuant to this Consent
 23 Decree is set forth in detail in the Settlement Agreement, which constitutes the removal of
 24 architectural barriers as referred to in the ADA 28CFR part 36 and ADAAG.

25 B. The work to be performed pursuant to this Consent decree shall be completed by
 26 November 30, 2011.

C. The remedial work set forth herein meets the "readily achievable" standard of the Americans with Disabilities Act of 1990.

VI. TERMINATION AND SATISFACTION

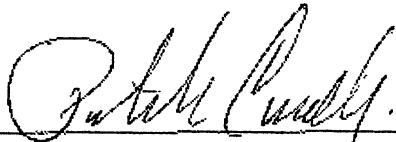
A. Upon the 1701 GREENWICH PARTIES completion of the work to be performed, as specified, pursuant to this Consent Decree or on November 30, 2011, whichever occurs earlier, the Court's jurisdiction of this matter shall terminate unless the parties show good cause for the continuance of this Consent Decree.

VII. EXECUTION OF THIS CONSENT DECREE

This Consent Decree may be executed in counterpart signatures, and such signatures may be attached in counterparts, each of which shall be deemed an original, and which together shall constitute one and the same instrument. Such counterparts may be signed as faxed signatures, which shall have the same force and effect as original signatures.

The undersigneds hereby consent to the foregoing Consent Decree.

Dated: 4-18 2011


PATRICK CONNALLY, Plaintiff

1701 GREENWICH PARTIES:

Dated: 4/19 2011


BARBARA R. BOYLE, Trustee, Defendant

Dated: 4/19 2011


CATHERINE BRANDI-LINT, Trustee, Defendant

1
2 Dated: 4/19 2011

Alfred J. Brandi
3 ALFRED J. BRANDI, Trustee

4
5
6 APPROVED AS TO FORM AND CONTENT:

7 Dated: 4/15/11 2011

8 THOMAS E. FRANKOVICH,
9 A PROFESSIONAL LAW CORPORATION

10 By: [Signature]
11 Thomas E. Frankovich
12 Attorneys for Plaintiff PATRICK CONNALLY

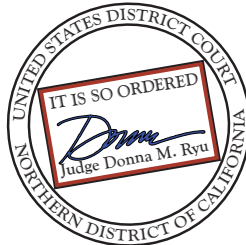
13
14 Dated: 4/21 2011

15 ROCHESTER WONG & SHEPARD
16 A Professional Corporation

17 By: [Signature]
18 William R. Shepard
19 Attorneys for Defendants/1701 GREENWICH
20 PARTIES

21
22 ORDER

23 IT IS SO ORDERED.



Dated: 5/9/11

Honorable Magistrate Judge Donna M. Ryu
United States District Court Judge